

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

---

CLIFFSTAR CORPORATION

Plaintiff,

v.

**ORDER**  
09-CV-690

ALPINE FOODS, LLC and  
JENSEN CRANBERRY BOGS, INC.,

Defendants.

---

---

This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1). On March 15, 2012 both plaintiff and defendants filed motions for summary judgment. On July 18, 2012, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that the motions be granted to the extent of awarding to Alpine Foods, LLC the funds deposited into court by Cliffstar Corporation, but otherwise be denied.

All parties filed objections to the Report and Recommendation and subsequently filed replies/responses to the respective objections.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon a *de novo* review of the Report and Recommendation, and after reviewing the submissions, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, plaintiff and defendants' motions for summary judgment are granted to the extent of awarding to Alpine Foods, LLC the funds deposited into court by Cliffstar Corporation, and otherwise are denied.

The case remains with Magistrate Judge McCarthy for further proceedings.

SO ORDERED.

s / Richard J. Arcara

HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: March 29, 2013